

Department of State

§ 129.2

objections filed raise no issues of material fact to be determined. The Administrative Law Judge will report the facts and make a recommendation to the Assistant Secretary for Political-Military Affairs, who will determine whether the application should be granted or denied and will issue an appropriate order. A copy of the order and of the Administrative Law Judge's report will be furnished to any person affected thereby.

(5) *Effect of revocation on other actions.* The revocation of a probationary period will not preclude any other action concerning a further violation, even where revocation is based on the further violation.

[61 FR 48834, Sept. 17, 1996, as amended at 71 FR 20552, Apr. 21, 2006; 78 FR 52689, Aug. 26, 2013; 79 FR 8089, Feb. 11, 2014]

§ 128.16 Extension of time.

The Administrative Law Judge, for good cause shown, may extend the time within which to prepare and submit an answer to a charging letter or to perform any other act required by this part.

[61 FR 48834, Sept. 17, 1996]

§ 128.17 Availability of orders.

All charging letters, debarment orders, and orders imposing civil penalties and probationary periods are available for public inspection in the Public Reading Room of the Department of State.

[78 FR 52690, Aug. 26, 2013]

PART 129—REGISTRATION AND LICENSING OF BROKERS

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AUTHORITY: Section 38, Pub. L. 104-164, 110 Stat. 1437, (22 U.S.C. 2778); E.O. 13637, 78 FR 16129.

SOURCE: 62 FR 67276, Dec. 24, 1997, unless otherwise noted.

§ 129.1 Purpose.

(a) Section 38(b)(1)(A)(ii) of the Arms Export Control Act (22 U.S.C. 2778) provides that persons engaged in the business of brokering activities shall register and pay a registration fee as prescribed in regulations, and that no person may engage in the business of brokering activities without a license issued in accordance with the Act.

(b) The brokering activities identified in this subchapter apply to those defense articles and defense services controlled for purposes of export on the U.S. Munitions List (*see* part 121 of this subchapter) or for purposes of permanent import on the U.S. Munitions Import List (*see* 27 CFR part 447).

[78 FR 52690, Aug. 26, 2013]

§ 129.2 Definitions.

As used in this part:

(a) *Broker* means any person (*see* § 120.14 of this subchapter) described below who engages in the business of brokering activities:

(1) Any U.S. person (*see* § 120.15 of this subchapter) wherever located;

(2) Any foreign person (*see* § 120.16 of this subchapter) located in the United States; or

(3) Any foreign person located outside the United States where the foreign person is owned or controlled by a U.S. person.

NOTE TO PARAGRAPH (A)(3): For purposes of this paragraph, "owned by a U.S. person" means more than 50 percent of the outstanding voting securities of the firm are owned by a U.S. person, and "controlled by a U.S. person" means one or more U.S. persons have the authority or ability to establish or direct the general policies or day-to-day operations of the firm. U.S. person control is rebuttably presumed to exist where U.S. persons own 25 percent or more of the outstanding voting securities unless one foreign person controls an equal or larger percentage.

(b) *Brokering activities* means any action on behalf of another to facilitate the manufacture, export, permanent